

that on the date of the test, she was advised that candidates were not permitted to bring cell phones into the test facility. The appellant notes that she was the only candidate who appeared in the room at the test site. She states that during the first half hour of the test, the proctor's cell phone rang. While the proctor apologized and she understood, she claims that the proctor's phone rang at least five more times and she believes that the proctor answered her phone at least once. The appellant states that the proctor did not turn off her ringer, which frustrated her when it continued to ring. She indicates that the proctor's cell phone ringing was very distracting, her thoughts were thrown off with every ring, and it made it impossible for her to concentrate. She requests that her resume, which she submits, be used as her grade since she is already provisionally serving in the subject title, or in the alternative, she be allowed to re-test in a distraction free environment.

The appellant also notes that she pointed out to the proctor that the test had a few "typos" and that there was a question that she believed there was incorrect. She asserts that she knew that the question did not make sense, she thought it was a trick question, and when she pointed it out to the proctor, the proctor responded, "you're right." The appellant states that the proctor indicated that she would let this agency know her concerns; however, once she received her low ranking, she knew it was the result of the distractions that she endured due to the proctor's cell phone calls, a question with errors, and added stress.

CONCLUSION

N.J.A.C. 4A:4-6.4(c) states that an examination candidate wishing to challenge the manner in which the examination was administered may file an appeal in writing at the examination site on the day of the examination.

N.J.A.C. 4A:4-6.3(b) provides that the appellant has the burden of proof in examination appeals.

Initially, since the appellant's appeal pertaining to the test administration issues were not were not submitted on the date of test administration, her appeal regarding these issues are untimely² and cannot be considered. In *In the Matter of Kimberlee L. Abate, et al.*, Docket No. A-4760-01T3 (App. Div. August 18, 2003), the court noted that "the obvious intent of this 'same-day' appeal process is to immediately identify, address and remedy any deficiencies in the manner in which the competitive examination is being administered."

Regardless, even if the appellant's appeal of the test administration was considered, there are no grounds for relief based on the alleged distractions during the test. The record indicates that the monitor stated that she had a reminder on her

² The test monitor notes only indicated that the appellant complained about test questions. There is no indication that the appellant complained to the monitor about the alleged distractions during the test administration or filed an appeal at the test site regarding the test's administration.

phone and the reminder alert went off. Additionally, the monitor indicated that she thought she turned it off, but it went off again, and then a third time, at which time she turned the phone off completely. The monitor stated that her phone did not ring, nor did she answer a phone call during the test administration. The monitor also noted that the appellant did not use her full test time to complete the test and she did not have to call time on the appellant because she completed her test prior to the end time. Therefore, the record indicates that either the distractions were not so significant as the appellant was able to complete her test timely, or in the alternative, if they were an issue for the appellant, as articulated in *Abate, supra*, the time to rectify the situation was at the test site. For example, if the phone noise was so distracting, the appellant could have asked for additional time to complete the test, with sufficient “distraction free” time. However, once the appellant has been exposed to the test, it would be unfair to the other candidates to allow her to “re-test.” Similarly, it would be unfair to the other candidates and against the Civil Service principles of competitive testing to allow her resume to substitute for the test.

Concerning the appellant’s belief that one of the multiple-choice answers to one the questions was wrong, specifically, the appellant believes that the phrase “locus of control,” which was part of the multiple-choice options for a question, was a “typo” as, based on her notes in the test booklet, she believed that it should have been “focus of control.” However, the Division of Test Development and Analytics indicates that the phrase “locus of control” was not a “typo.” It is noted that the phrase “locus of control” is a theoretical construct designed to assess a person's perceived control over his or her own behavior. The classification *internal locus* indicates that the person feels in control of events; and *external locus* indicates that others are perceived to have that control. See *Dictionary.com*. It is also noted that neither the answer choice that the appellant chose, nor the correct answer, contained this phrase. Further, regardless as to how much extra-time that the appellant may have spent on this question due to her being unfamiliar with the “locus of control” phrase, as indicated above, the appellant finished the test prior to the time allotted so there is no evidence that her lack of familiarity with this phrase impacted her score.

Regarding the appellant’s complaint about other “typos,” a review of the test booklet indicates that there was an information chart that was used for a series of questions. As part of the chart, there were time slots that went from 9:00 a.m. to 5:00 p.m. in half-hour increments. The “ones” were missing in the left column from 11:00, 11:30 and 12:00. The chart indicated 9:00-9:30, 9:30-10:00, 10:30-11:00, 1:00-11:30, 1:30-12:00, 2:00-12:30, 1:00-1:30, 1:30-2:00, *etc.* A review of the chart indicates that it should have indicated 9:00-9:30, 9:30-10:00, 10:30-11:00, 11:00-11:30, 11:30-12:00, 12:00-12:30, 1:00-1:30, 1:30-2:00, *etc.* However, it is noted that the appellant understood the chart because in her test booklet she filled in the missing “ones.” It is also noted that out of 106 candidates who took the subtest that day,³ no other candidate appealed or complained about this issue. Additionally, while the monitor

³ There were four titles/symbols where the subtest was used.

notes indicate that the appellant highlighted the “typos,” there is no indication that these “typos,” which the appellant corrected in her booklet while taking the test, impacted her test score. Accordingly, the appellant has not met her burden of proof in this matter.

ORDER

Therefore, it is ordered that this appeal be denied.

This is the final administrative determination in this matter. Any further review should be pursued in a judicial forum.

DECISION RENDERED BY THE
CIVIL SERVICE COMMISSION ON
THE 21ST DAY OF JULY, 2021

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